

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DEMETRIUS L. COOPER,

Plaintiff,

v.

SERGEANT MEYER, et al.,

Defendants.

ORDER

Case No. 16-cv-526-bbc

Plaintiff Demetrius L. Cooper has a deadline of August 16, 2016 to pay the initial partial payment of the filing fee in this case. Now plaintiff has submitted a letter request to waive the initial partial filing fee. Plaintiff's request will be denied without prejudice.

The account statement that plaintiff filed with his complaint shows that he receives regular deposits to his trust fund account. Because it may well be that plaintiff will be able to make the initial partial payment from the next deposits made to his account, I am willing to provide him an extension of time until September 7, 2016 in which to pay the \$1.95 initial partial filing fee. If, by September 7, 2016, plaintiff is unable to pay the initial partial payment, he is free to renew his request to waive the initial partial filing fee, supported by a recent account statement and any correspondence from his business office. I note, that in *Newlin v. Helman*, 123 F.3d 435 (7th Cir. 1997), the court of appeals held that initial partial payments are to "come off the top" of all deposits to a prisoner's account. That means that the \$1.95 initial partial filing fee is to be given priority over debts and obligations plaintiff might owe. Plaintiff should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that,

1. Plaintiff Demetrius Cooper's request to waive the initial partial filing fee in this case is DENIED without prejudice. Plaintiff may have an enlargement of time, to September 7, 2016, to pay the \$1.95 initial partial filing fee in this case. This initial partial payment is to be given priority over debts and obligations plaintiff might owe.

2. If, by September 7, 2016, plaintiff fails to make the initial partial payment or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff's filing this case at a later date.

Entered this 5th day of August, 2016.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge